

**STAFF REPORT
C75**

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10/19/17
W 24665
L. Pino

**CONSIDER ACCEPTANCE OF AN OFFER OF DEDICATION
OF LATERAL ACCESS EASEMENT**

PARTY WHO RECORDED OFFER OF DEDICATION:

Malibu Bay Company

PARTY TO ACCEPT EASEMENT:

California State Lands Commission

INTERESTED PARTY:

California Coastal Commission

LOCATION:

The easement is located between the ambulatory mean high tide line of the Pacific Ocean and seaward most limit of dune vegetation, adjacent to 30732 Pacific Coast Highway (PCH), city of Malibu, Los Angeles County.

BACKGROUND:

Since the adoption of the Constitution of California of 1879, access to California's Public Trust waterways has been a mandated responsibility of State government. The vast majority of the hundreds of title settlement agreements the State Lands Commission (Commission) has entered into since its inception in 1938 have included the provision of public access to the waterways involved.

In the 1960s, an organization with the acronym COAAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, more than 1,500 offers to dedicate (OTDs) public access easements, both vertical and lateral (i.e., to and along the coast), have been made involving California's 1,100-mile coastline.

These OTDs are formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. These OTDs have a 21-year life from the date of recording and will expire if not formally accepted by a public agency within that time period.

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The OTDs are required to ensure protection of existing public rights of use and to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately-owned uplands and the publicly-owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the OTDs does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The California Coastal Commission (CCC) has requested that the State Lands Commission (Commission) review and, where appropriate, accept OTDs of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the Commission. Commission staff is involved in an ongoing process with the CCC to analyze the OTDs and determine which offers the Commission should accept.

The Commission has already authorized the acceptance of more than 280 OTDs along the coast of California since April 2, 1991, the majority of which are located in the Malibu area of Los Angeles County.

The Commission's liability for holding these lateral parcels is limited by section 831.2 of the California Government Code, which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

OTDs generally involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already State-owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are, for all practical public use purposes, integral to it.

Staff reviewed the offer of the property interest shown on the attached Exhibit B (Subject Property) and a proposed draft of the OTD for the Subject Property and recommends that the Commission authorize the Executive Officer to approve and accept the OTD as recorded with the Los Angeles County recorder's office.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6106, 6216, 6219, and 6301.

Public Trust and State's Best Interests Analysis:

The proposed action involves acceptance of an OTD to secure a public lateral access easement across a privately held parcel. Public access easements are vital tools for ensuring California's coastline remains open and accessible to the public. The OTD, as recorded, includes the entire width of the Subject Property from the mean high tide line landward to the ambulatory seaward most limit of dune vegetation.

The Coastal Development Permit (No. 05-136) that required the OTD at 30732 PCH as a condition was approved on December 14, 2009, by the City of Malibu (Resolution No. 09-68). The Malibu Bay Company recorded the Irrevocable Offer to Dedicate Public Access Easement and Declaration of Restrictions on January 22, 2016, as Document No. 20160079282, Official Records of Los Angeles County. The OTD expires on January 22, 2037.

Staff has reviewed the recorded OTD and believes it is appropriate for Commission acceptance. Upon approval by the Commission, the Commission's Executive Officer will execute and record a Certificate of Acceptance, accepting the easement on the Subject Property. Once accepted, the easement will create approximately 200 lineal feet of public access along the beach adjacent to the property at 30732 PCH (Assessor's Parcel Number 4469-026-005).

The addition of this easement will address a gap in the existing lateral access along this portion of the beach, creating greater certainty for the public that the beach is open to the public. As such, staff believes that the proposed action is consistent with and promotes Public Trust needs and values at this location, at this time, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Staff recommends acceptance of the OTD as it promotes Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends the Commission find that acceptance of an offer of dedication does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and

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is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378.

EXHIBITS:

- A. Site and Location Map
- B. Lateral Access Easement Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that acceptance of the offer of dedication is not subject to the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that acceptance of the offer of dedication is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

AUTHORIZATION:

1. Approve and authorize a Certificate of Acceptance for the Irrevocable Offer to Dedicate Public Access Easement recorded on January 22, 2016, as Document No. 20160079282, Official Records of Los Angeles County; as a condition of Coastal Development Permit No. 05-136 for Assessor's Parcel Number 4469-026-005.
2. Authorize the Executive Officer or her designee to execute and record the Certificate of Acceptance on behalf of the Commission, in substantially the form of the copy of such document on file in the Sacramento office of the Commission.



EXHIBIT A

TS 08/16/17

W 24665
30732 PACIFIC COAST HIGHWAY,
MALIBU, LOS ANGELES COUNTY

CALIFORNIA STATE
LANDS COMMISSION



P S O M A S

EXHIBIT C-1**PARCEL MAP NO. 24070****LATERAL PUBLIC ACCESS EASEMENT AREA DESCRIPTION**

A portion of land being a part of Rancho Topanga Malibu Sequit, in the City of Malibu, County of Los Angeles, State of California, as per map thereof recorded in Book 1 of Patents, pages 414 to 416, Records of said County, described as follows:

Beginning at Engineer's Station 420+24.72 at the westerly end of a tangent line bearing South 53°22'30" East 906.54 feet in the center line of the 80.00 foot wide strip of land described in the Final Order of Condemnation, in Los Angeles County Superior Court Case No. 135650, a certified copy of said Final Order being recorded in Book 9434, Page 338 of Official Records of said County; thence along the center line of said 80.00 foot strip of land, South 53°22'30" East 63.50 feet; thence South 36°37'30" West 40.00 feet to a point in the southerly line of said 80.00 foot strip, said point being also the northwesterly corner of a parcel of land described in a Deed from the Marblehead Land Company to C.J. Hubbell, recorded in Book 17715, Page 363 of Official Records of said County; thence northwesterly along the southerly line of said 80.00 foot strip the following two courses: North 53°22'30" West 62.87 feet; thence North 55°10'30" West 137.13 feet to the northwesterly line of the land described in Grant Deed recorded in Book 21336, Page 269 of Official Records of said County; thence southwesterly along said northwesterly line, South 34°49'30" West 274.65 feet to the True Point of Beginning; thence South 73°22'52" East 9.00 feet; thence North 85°42'14" East 7.00 feet; thence South 67°07'03" East 7.00 feet; thence South 88°44'18" East 7.00 feet; thence South 71°34'34" East 9.00 feet; thence South 54°03'41" East 8.00 feet; thence South 04°21'53" East 13.00 feet; thence South 40°48'46" East 6.00 feet; thence South 58°06'51" East 10.00 feet; thence South 65°13'53" East 13.00 feet; thence South 83°36'37" East 8.00 feet; thence South 29°52'37" East 4.00 feet; thence

Sheet 1 of 2

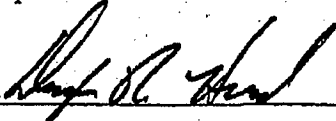
P S O M A S

1 South 78°44'46" East 4.00 feet; thence South 52°56'18" East 20.00 feet; thence
 2 South 70°22'53" East 10.00 feet; thence North 85°59'10" East 8.00 feet; thence
 3 South 43°03'44" East 8.00 feet; thence South 17°50'52" East 8.00 feet; thence
 4 South 37°42'38" East 20.00 feet; thence South 52°52'26" East 16.00 feet; thence
 5 South 72°16'52" East 12.65 feet to the northwesterly line of said land per Deed from the
 6 Marblehead Land Company to C.J. Hubbell; thence southwesterly along said line,
 7 South 36°37'30" West to a point in the Ordinary High Tide line of the Pacific Ocean;
 8 thence westerly along said tide line to the intersection of said tide line with said
 9 northwesterly line of land per Book 21336, Page 269, said line bears
 10 South 34°49'30" West and runs through the True Point of Beginning; thence northeasterly
 11 along said line, North 34°49'30" East to the True Point of Beginning.

12
 13 The seaward boundary of the easement area and the landward boundary of the easement
 14 area are ambulatory.

15
 16 This legal description is delineated on the accompanying "Exhibit C-2 Lateral Public
 17 Access Easement Area" and is made a part hereof for reference purposes and is not to be
 18 used in conveyance of land in violation of the Subdivision Map Act of the State of
 19 California.

20
21 Prepared under the direction of

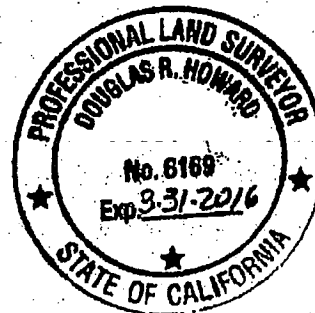
22 

23
24 Douglas R. Howard, PLS 6169

25 Psomas

10-16-2015

26 Date



27
28 Sheet 2 of 2

SCALE: 1"=80'

SHEET 1 OF 1

EXHIBIT C-2

PARCEL MAP NO. 24070

LATERAL PUBLIC ACCESS EASEMENT AREA

PACIFIC COAST HIGHWAY

BROAD BEACH
ROADNORTHWEST CORNER
OF THE LAND PER
BK 21336-269 O.R.

CENTERLINE STA.

420+24.72

1082.84'

N55°10'30"W

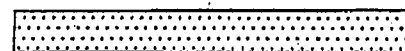
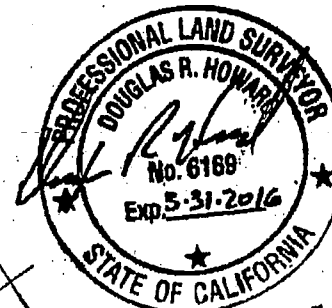
POB

S53°22'30"E
63.50'S36°37'30"W
40.00'NORTHWEST CORNER
OF THE LAND PER
BK 17715-363 O.R.PARCEL MAP
NO. 24070

A1	S73°22'52"E	9.00'
B1	N85°42'14"E	7.00'
C1	S67°07'03"E	7.00'
D1	S88°44'18"E	7.00'
E1	S71°34'34"E	9.00'
F1	S54°03'41"E	8.00'
G1	S04°21'53"E	13.00'
H1	S40°48'46"E	8.00'
I1	S58°06'51"E	10.00'
J1	S65°13'53"E	13.00'
K1	S83°36'37"E	8.00'
L1	S29°52'37"E	4.00'
M1	S78°44'46"E	4.00'
N1	S52°56'18"E	20.00'
O1	S70°22'53"E	10.00'
P1	N85°59'10"E	8.00'
Q1	S43°03'44"E	8.00'
R1	S17°50'52"E	8.00'
S1	S37°42'38"E	20.00'
T1	S52°52'26"E	16.00'
U1	S72°16'52"E	12.65'

TPOB

LATERAL PUBLIC ACCESS EASEMENT AREA
THE LANDWARD AND SEAWARD BOUNDARIES OF
THE EASEMENT AREA ARE AMBULATORY.
SEAWARD LIMIT OF DUNE VEGETATION LINE
SHOWN AS SURVEYED MAY 14, 2013 FOR
REFERENCE PURPOSES.

ORDINARY HIGH TIDE LINE
PACIFIC OCEANINDICATES THE AREA COVERED BY
THE LEGAL DESCRIPTION

10-16-2015

PSOMAS

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DATE: 10/16/15

JOB No: 1BR0016001 TASK 102

80' 40' 0' 80' 160'

SCALE: 1" = 80'

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